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In re Application of :
Goldstein, et al. :
Application No. 09/785,791 : ON PETITION
Filed: February 16, 2001 :
Docket No. 12808.12USI1 :

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed March 25, 2008, to revive the above-identified application.


The petition is **GRANTED**.

A final Office action was mailed July 30, 2003. A Notice of abandonment was mailed March 24, 2004. The Notice of Abandonment indicated that no response to the final Office action had been timely received. On November 8, 2004, a petition to withdraw the holding of abandonment was filed, alleging that a response to the final Office action, in the form of a Notice of Appeal, had been timely filed October 22, 2003. The petition was denied by decision mailed August 29, 2005. The decision indicated that the Notice of Abandonment had been prematurely mailed, but notwithstanding, petitioner had failed to submit a proper reply in the form of an appeal brief within the time period set forth under 37 CFR 47.37. Moreover, the decision held that the petition to withdraw the holding of abandonment was untimely submitted within the meaning of 37 CFR 1.181 and MPEP 711.03(c). The decision indicated that the date of abandonment was December 22, 2003, two months after the date that the Notice of Appeal was filed. The petition was renewed under 37 CFR 1.137(b) by petition filed July 14, 2006. The petition was dismissed January 25, 2008.

The instant renewed petition has been carefully reviewed and found to satisfy the requirements of 37 CFR 1.137(b) in that petitioners have supplied (1) the reply in the form of a Request for Continued Examination (RCE) and required fee, and the submission required by 37 CFR 1.114; (2) the required petition fee; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3205.

This application is being referred to Technology Center AU 2613 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.



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Office of Petitions